IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**APPEAL (LODGING) NO. 905 OF 2005**

IN

SUIT NO. 2963 OF 1994

Laxmi Nagar Maratha Co-operative
Housing Society Ltd. ... Appellant
(Orig.Defendant No.2)

Versus

Shalini Balkrishna Sanap & Ors. ... Respondents

Mr. C.N.Chavan for the appellant.

Mr. R.D.Dhanuka i/b. A.R.Dhanuka for respondent No.1.

Ms. J.M.Sidhwa i/b. I.P.D'Cruz for respondent No.1.

**CORAM: D.K.DESHMUKH &**
**J.H.BHATIA,JJ.**

**DATE : 1st August, 2007.**

**P.C.**

1. Heard learned Counsel for both the sides.

2. By consent, the Appeal is disposed of in the following terms :-

(i) The order dated 15th September, 2003 passed in Suit No.2963 of 1994 is set aside. The Suit is restored to file.

(ii) In case the appellant-defendant No.2 files its

written statement within a period of four weeks from today, it shall be taken on record.

(iii) Within a period of four weeks from today, the appellant shall pay to the plaintiff-respondent No.1 Rs.10,000/- as costs of this Appeal.

(iv) During the pendency of the suit, the plaintiff shall continue to occupy the flat which is presently in possession of the plaintiff.

(v) During the pendency of the suit, the appellant-Society shall treat the plaintiff as its member for all purposes.

(vi) Filing of the written statement and payment of costs within the aforesaid time is a condition precedent. If the written statement is not filed within the aforesaid time and the payment of costs is not made within the aforesaid time, the Office shall treat this Appeal as dismissed.

The Appeal is disposed of.

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**(D.K.DESHMUKH,J.)**

**(J.H.BHATIA,J.)**